

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

**IN RE: SUBPOENA TO NON-PARTY  
LIFEPOINT HEALTH, INC.,**

**UNITED STATES OF AMERICA, *et al.*  
*ex rel.* JESSE POLANSKY M.D., M.P.H.,**

**Plaintiffs,**

**v.**

**EXECUTIVE HEALTH RESOURCES, INC.,  
*et al.*,**

**Defendants.**

**Miscellaneous Action No.:**

**Related to 2:12-CV-04239-MMB in  
the United States District Court for  
the Eastern District of Pennsylvania**

**MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rule of Civil Procedure 37(a)(3)(B), Plaintiff Relator Jesse Polansky M.D., M.P.H. (“Relator”) moves for an order compelling the production of documents. On November 3, 2017, Relator served Lifepoint Health, Inc. with a subpoena requesting documents as part of Phase 1 discovery in his False Claims Act case against Defendant Executive Health Resources. On November 30, 2017, Lifepoint responded to the subpoena with various objections and after a year of meeting and conferring, ultimately refused to produce the requested documents, necessitating this Motion to Compel. Relator respectfully requests this Court to compel Lifepoint to produce the requested documents.

Relator also moves for an order compelling Lifepoint to produce documents requested in Relator’s November 30, 2018 Medical Records Subpoena. On November 30, 2018, Relator served Lifepoint with two subpoenas requesting Medical Records, including UM work product (communication and reviews regarding the medical necessity of hospital status determinations).

Lifepoint produced some of the requested documents, but refused to produce UM work product, necessitating this Motion to Compel. Relator respectfully requests this Court to compel Lifepoint to produce the documents requested in the November 30, 2018 Medical Records Subpoenas. In support of this Motion, Relator incorporates the accompanying Memorandum in Support and the exhibits attached thereto.

Respectfully submitted,

Dated: July 22, 2019

By: s/ Grace A. Fox  
Samuel P. Funk  
Grace A. Fox  
SIMS|FUNK PLC  
3322 West End Ave, Suite 200  
Nashville, TN 37203  
Tel: (615) 292-9335  
Fax: (615) 649-8565  
sfunk@simsfunk.com  
gfox@simsfunk.com

*Pro Hac Vice* Motions Forthcoming:

Chad Brian Walker  
John Harding  
WINSTON & STRAWN LLP  
2121 N. Pearl Street, Suite 900  
Dallas, TX 75201  
Tel: 214-453-6500  
CBWalker@winston.com  
JWHarding@winston.com

Bailey K. Benedict  
FISH & RICHARDSON, P.C.  
1221 McKinney St., Suite 2800  
Houston, TX 77010  
Tel: 713-654-5300  
benedict@fr.com

Counsel for Plaintiff,  
Jesse Polansky M.D., M.P.H.

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document has been served by electronic mail on July 23, 2019 to the following counsel of record:

**COVINGTON & BURLING LLP**

Ethan M. Posner  
Christopher M. Denig  
Matthew F. Dunn  
Krysten Rosen Moller  
One City Center  
850 Tenth Street NW  
Washington, DC 20001  
(202) 202-662-5314  
[Cdenig@cov.com](mailto:Cdenig@cov.com)  
[Eposner@cov.com](mailto:Eposner@cov.com)  
[Mdunn@cov.com](mailto:Mdunn@cov.com)  
[krosenmoller@cov.com](mailto:krosenmoller@cov.com)

**PEPPER HAMILTON LLP**

Thomas M. Gallagher  
Abigail A. Hazlett  
Kaitlin M. Gurney  
Megan L. Traversari  
Michael A. Schwartz  
Robin P. Sumner  
3000 Two Logan Square  
Philadelphia, PA 19103-2799  
(215-981-4000)  
[Gallagher@pepperlaw.Com](mailto:Gallagher@pepperlaw.Com)  
[Hazletta@pepperlaw.Com](mailto:Hazletta@pepperlaw.Com)  
[Gurneyk@pepperlaw.Com](mailto:Gurneyk@pepperlaw.Com)  
[Traversm@pepperlaw.Com](mailto:Traversm@pepperlaw.Com)  
[Schwartzma@pepperlaw.Com](mailto:Schwartzma@pepperlaw.Com)  
[Sumnerr@pepperlaw.Com](mailto:Sumnerr@pepperlaw.Com)

**BASS, BERRY, & SIMS**  
Matthew Curley

**UNITED STATES DEPARTMENT OF JUSTICE**

Reneé S. Orleans  
Civil Division, Fraud Section  
950 Pennsylvania Ave.  
Washington, DC 20530

**UNITED STATES ATTORNEY'S OFFICE**

Charlene Fulmer  
Eric Gill  
Viveca D. Parker  
Eastern District of Pennsylvania  
615 Chestnut Street, Suite 1250  
Philadelphia, PA 19106  
(215) 861-8250  
[eric.gill@usdoj.gov](mailto:eric.gill@usdoj.gov)  
[Viveca.Parker@usdoj.gov](mailto:Viveca.Parker@usdoj.gov)

**UNITED STATES DEPARTMENT OF JUSTICE**

Kelley Hauser  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
(617) 748-3308  
[Kelley.Hauser@usdoj.gov](mailto:Kelley.Hauser@usdoj.gov)

**UNITED STATES DEPARTMENT OF JUSTICE**

Tracy L. Hilmer  
(202) 307-0474  
Fax: (202) 616-3085  
Department of Justice, Civil Division  
P.O. Box 261  
Ben Franklin Station, Washington, DC 20044  
[Tracy.Hilmer@usdoj.gov](mailto:Tracy.Hilmer@usdoj.gov)

Kaitlin Harvie  
150 Third Avenue South  
Suite 2800  
Nashville, TN 37201  
[MCurley@bassberry.com](mailto:MCurley@bassberry.com)  
[KHarvie@bassberry.com](mailto:KHarvie@bassberry.com)

By: s/ Grace A. Fox  
Grace A. Fox